(Spl. - H.C.A.S. C.D., 78-e)
FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF BOMBAY AT GOA
PANAJI – GOA
APPELLATE SIDE

WRIT PETITION NO. 546 OF 2004

Office Notes, Office Memoranda of Quorum appearances, Court's orders, or directions and Registrar's orders.	Court's or Judge's Orders.

Mrs. A.D. Bhobe, Advocate for the petitioner.

Mr. S.D. Padiyar, Advocate for respondent No.1.

Mr. Aires Rodrigues, Advocate for respondent No.2 (Caveator).

CORAM : B.H. MARLAPALLE, J.

DATE : 2ND DECEMBER, 2004.

P.C.

Heard Mr. Bhobe, the learned Counsel for the petitioner, who was issued notice dated 16.7.2003 by the Chief Officer of the Margao Municipal Council under Section 174 of the Goa Municipalities Act, 1968, calling upon him to remove the illegal construction on the public road. This notice was challenged by the petitioner in Municipal Appeal No.30/2003, which along

with Misc Application No.35/2003 for stay came to be decided by Judgment and Order dated 14.10.2003. The appeal was dismissed by confirming the action of the Municipal Council. Against the said order, further appeal i.e. Municipal Appeal No.4/2003 came to be filed before the State Government and it has been decided by the Chief Secretary on 27.10.2004. The appeal failed.

2. Mr. Bhobe, referred to the provisions of Section 174 and 184 of the Act, and submitted that there was no case made out to issue notice under Section 174 and if at all there was any illegal construction, such a demolition could be by way of notice under Section 184 of the Act. No such notice was given to the petitioner. All issues of defence raised by the petitioner before both the Courts below, on the facts as well as law, have been considered and the reasoning given on the concurrent findings does not suffer any error apparent on the face of the record. No case is made out calling for

interference in the petition under Article 227 of the Constitution. The challenge, therefore, is devoid of merits and hence the petition is rejected, summarily.

B.H. MARLAPALLE, J.

ssm.